

REMARKS

In view of the above amendments and the following remarks, the Examiner is respectfully requested to withdraw the rejections and allow Claims 1-5, 7-12 and 14-19, as well as new claims 21 to 30, the only claims pending and under examination at this time following entry of the above amendments.

Claims 1, 8 and 15 have been amended to recite that the fluid delivery device provides for introduction of fluid to and simultaneous removal of fluid from a vascular site, support for this amendment being found in the specification at least at page 9, line 14. New Claims 21 to 31 find support in the previously pending claims, as well as in the specification at page 6, line 24 (pH of 0 to 1) and page 10, line 21 (cytotoxic agent). As the above amendments introduce no new matter, there entry by the Examiner is respectfully requested.

An objection has been raised to the introduction to the specification in the prior amendment of the phrase "the catheter devices of the subject invention also typically include a means for isolating the local environment of the target lesion...." for the asserted reason that phrase introduces new matter to the application. However, this phrase is specifically found in the text from the previously incorporated by reference application 09/353,127.

The 09/353,127 application has now issued as Patent No. 6,379,345. The following paragraph appears at Col. 10, line 66 to Col. 11, line 7.

In many embodiments, the fluid introduction means is a catheter. In many embodiments, catheters employed in the subject methods include at least one fluid introduction means for introducing a dissolution fluid to the local environment of the lesion and a fluid removal means for removing fluid from the local environment of the lesion. In many embodiments, the catheter devices of the subject invention also

typically include a means for isolating the local environment of the target lesion.

[emphasis added]

As the objected to phrase clearly appears in the patent that has been incorporated by reference, no new matter has been added by this phrase and this objection may be withdrawn.

The Examiner has maintained the rejection of Claims 1-5, 7-12 and 14-19 under 35 U.S.C. § 102(e) as being anticipated by Hausheer. In maintaining this rejection, the Examiner asserts that the hypodermic needle or catheter delivery device of Hausheer could be employed to dynamically introduce fluid to a vascular site and therefore the kit claims do not distinguish over Hausheer.

As amended, the claimed kits are limited such that the fluid delivery device must be one that is able to introduce a fluid to and **simultaneously remove it from** a vascular site. Such a device must necessarily have at least separate or distinct fluid introduction and fluid removal conduits, so as to provide for this simultaneous action.

The reference cited by the Examiner discloses a method based on systemic administration of a fluid, and therefore does not teach or even suggest a device as required in the above claims. Specifically, there is no teaching in Hausheer of a device that can simultaneously introduce and remove fluid from a vascular site. As such, Hausheer fails to teach a kit that includes the recited fluid delivery devices.

Because Hausheer fails to teach each and every element of the claimed kit, e.g., the recited fluid delivery devices, Hausheer fails to anticipate Claims 1-5, 7-12 and 14-19 under 35 U.S.C. § 102(e) and this rejection may be withdrawn.

New Claims 21 to 31 all require the solution to have a pH of 0 to 1. As stated by the Examiner, Hausheer's solution has a pH of 2 to 6. Accordingly, new Claims 21 to 31 are not anticipated by Hausheer.

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CONCLUSION

In view of the above amendments and remarks, this application is considered to be in good and proper form for allowance and the Examiner is respectfully requested to pass this application to issuance. The Commissioner is hereby authorized to charge any fees under 37 C.F.R. §§ 1.16 and 1.17 which may be required by this paper, or to credit any overpayment, to Deposit Account No. 50-0815.

Respectfully submitted,

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